IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2012 OF 2005

Ravindra Laxman Tiwar ..Appellant.

Vs.

Employees State Insurance Corporation ..Respondent.

....

Mr.A.K.Jalisatgi for the Appellant.

Mr.H.V.Mehta for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

15th December, 2005.

P.C. :

1. The short question upon which this First Appeal turns is whether the paternal uncle of a deceased insured person can be regarded as a dependent within the meaning of Section 2(6-A) of the Employees' State Insurance Act 1948. The facts are not in dispute and the outcome of this Appeal will turn upon whether the Appellant is a dependant

within the meaning of Section 2(6-A). The deceased was the nephew of the Appellant. The father of the deceased expired on 16th October, 1977, a few months after the birth of the insured on 19th May, 1977. It is the case of the Appellant that the mother also expired and the insured was brought up by the Appellant.

2. Section 2(6-A) defines the expression 'dependent' as follows :

> "6-A) "dependent" means any of the following relatives of a deceased insured person, namely :

(i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted [daughter;]

[(i-a) a widowed mother;]

(ii) If wholly dependant on the earning of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of eighteen years and is infirm;

(ii) if wholly or in part dependant on the earnings of the insured person at the time of his death, -

(a) a parent other than a widowed mother,

(b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(c) a minor brother or an unmarried sister or a widowed sister if a minor,

(d) a widowed daughter-in-law,

(e) a minor child of a pre-deceased son,

(f) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(g) a paternal grandparent if no parent of the insured person is alive:"

The definition will thus show that certain specified relatives have been regarded as dependents for the purposes of the provisions of the Act. These include for instance a widow, a minor legitimate or adopted son and an unmarried legitimate or adopted daughter in clause (i). A widowed mother is included in clause (i-a). A legitimate or adopted son or daughter who is of the age of 18, but is infirm and is wholly dependent on

the earnings of the insured at the time of his death is brought in under clause (ii). Clause (iii) lists out certain relatives who are wholly or in part dependent on the earnings of the insured at the time of his death. Sub-clause (a) thereof is a parent other than the widowed mother since the widowed mothers are already brought in under clause (1-a). The legislature has not brought within the purview of the definition other relatives save and except for those who fall within the scope and purview of clause (6-A). A parent cannot include a paternal uncle even if, for the purposes of the case the submission of the Appellant that it was the Appellant who has brought up the deceased is accepted. Reliance has been placed on Black’s Law Dictionary which defines the expression ’parent’ as the "lawful father or mother" of someone. The dictionary defines the term as commonly including : (i) either the natural father or the natural mother of a child, (ii) either the adoptive father or the adoptive mother of a child, (iii) the natural mother of an illegitimate child, (iv) a child’s putative blood parent who has expressly acknowledged paternity and (v) any individual or agency whose status as guardian has been

established by judicial decree. A foster parent is defined as one who performs the duties of a parent to the child of another by rearing the child as his own child.

3. In the present case, the Court must be guided by the dictionary which is provided by the statute itself. The legislature not having recognized relatives who do not fall within the purview of Section (6-A), it would not be permissible for the Court to do so. A paternal uncle cannot be regarded as a parent. The expression ’parent’ in its ordinary connotation cannot be extended to include an uncle. There is no merit in the Appeal, which is accordingly dismissed.